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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIC M. ALBRITTON,
Plaintiff,

vs.

CISCO SYSTEMS, INC., RICHARD
FRENKEL, MALLUN YEN, & JOHN
NOH,
Defendants.

Miscellaneous Action No.
CV 5:08-mc-80153-JW (HRL)

**DECLARATION OF RICHARD
FRENKEL IN SUPPORT OF
DEFENDANTS CISCO SYSTEMS,
INC., RICHARD FRENKEL, MALLUN
YEN, JOHN NOH & NON-PARTY
MARK CHANDLER'S MOTION TO
QUASH SUBPOENA**

1.

DECLARATION OF RICHARD FRENKEL IN SUPPORT OF
DEFENDANTS CISCO SYSTEMS, INC., RICHARD FRENKEL,
MALLUN YEN, JOHN NOH & NON-PARTY MARK CHANDLER'S
MOTION TO QUASH SUBPOENA

1 I, RICHARD FRENKEL, declare and state as follows:

2 1. My name is Richard Frenkel. I am over twenty-one years of age, competent in all
3 respects and authorized to execute this Declaration. All of the matters stated herein are true and
4 correct and are within my personal knowledge.

5 2. I am an attorney and member of the California Bar since 1999, and I am licensed to
6 practice in California. I was at all times material to the underlying lawsuit that forms the basis of
7 the subpoena at issue (the "Underlying Lawsuit") a Director, Intellectual Property—Consumer
8 and Emerging Technologies of Cisco Systems, Inc. ("Cisco")

9 3. On May 9, 2007, I began a news-oriented website called the "Patent Troll
10 Tracker." I used Google's Blogger service as my web hosting provider, and maintained an email
11 account with Google using Google's Gmail software. My stated goal, in my very first post, was
12 "to educate the world on how many patent cases are out there that are filed by trolls," which I
13 defined as "corporations that make no products, but do nothing but acquire patents to sue and
14 make revenue." I continued that education by providing regular news articles about cases filed by
15 non-practicing entities colloquially known as "patent trolls."

16 4. The Patent Troll Tracker website continued until late February 2008. During these
17 nine months, I published over 180 articles about different facets of patent litigation and "patent
18 trolls." Patent Troll Tracker was published regularly. For example, I had a monthly installment
19 where I would review the patent litigation statistics from the previous month, and report on
20 litigation filed by non-practicing entities. I called this my "Troll Call." Besides the monthly
21 feature, I would try to have an assortment of stories, about two or three per week, focusing on
22 different interesting cases and the debate on patent reform issues.

23 5. Until earlier this year, I published the Patent Troll Tracker website anonymously. I
24 voluntarily disclosed my identity on the website on February 23, 2008. After I revealed myself to
25 be an attorney employed by Cisco, my employer and I were sued in Texas by Eric M. Albritton
26 ("Albritton") for defamation relating to an article I posted on October 18, 2007. The article
27 concerned a lawsuit filed on behalf of ESN, LLC by Albritton in U.S. District Court for the
28 Eastern District of Texas. Cisco was one of the defendants in that litigation.

